

**REMARKS/ARGUMENTS:**

Claims 1 and 8 are amended. Claim 2 is canceled. Claims 1 and 3-11 are pending in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

Applicant believes the foregoing amendments comply with requirements of form and thus may be admitted under 37 C.F.R. § 1.116(b). Alternatively, if these amendments are deemed to touch the merits, admission is requested under 37 C.F.R. § 1.116(c). In this connection, these amendments were not earlier presented because they are in response to the matters pointed out for the first time in the Final Office Action.

Lastly, admission is requested under 37 C.F.R. § 1.116(b) as presenting rejected claims in better form for consideration on appeal.

Claims 1 and 3 were rejected as being unpatentable over Oikawa Tetsuo [JP 58-032347]. The applicant amends claim 1 to incorporate the subject matter of claim 2, which has been allowed. Accordingly, claims 1 and 3 should now be allowable. Claim 2 is canceled.

Claims 8-10 were rejected as being obvious over Krivanek [126] in view of Kundmann [524]. Claims 8-10 were also rejected as being obvious over Tsuno [2001/0052744] in view of Kundmann. These rejections are respectfully traversed.

The Examiner's rejections are essentially the same as those made in a previous Office Action mailed December 24, 2003. The applicant responded to these rejections in a previous amendment dated February 26, 2004, distinguishing the cited references based on the claimed step of "repeating shifting ...". In order to more clearly define the subject matter of the invention, the applicant has now amended this element of claim 8, which now reads: "repeating shifting of a position of the selected electron beam on the slit at least once from a first position where the

selected electron beam is intercepted more by a first shield than by a second shield, via an intermediate position where the selected electron beam is intercepted equally by the first and the second shield, to a second position where the selected electron beam is intercepted more by the second shield than by the first shield". The amended claim language more clearly specifies the locations of the beam relative to the first and second shield when the beam shifts from the first position to the second position. This claim language is supported by, for example, Figs. 5A-5D and the accompanying descriptions.

In Kundmann, the course zero loss peak alignment step (Fig. 4) is carried out by measuring the beam current on the upper and lower slit halves, and moving the zero loss peak away from the slit half with higher reading, until the readings on the upper and lower slit halves are equal (Steps 160, 162, 164). Thus, this method moves the zero loss peak from an off-centered position to a centered position but does not move it past the center position. The coarse alignment step does not teach or suggest shifting the beam "from a first position where the selected electron beam is intercepted more by a first shield than by a second shield, via an intermediate position where the selected electron beam is intercepted equally by the first and the second shield, to a second position where the selected electron beam is intercepted more by the second shield than by the first shield" as required by claim 8.

The fine zero loss peak alignment in Kundmann (Fig. 5) is carried out by first moving the spectrum stepwise toward the upper slit half until the intensity is zero (Steps 166, 168 and 170), then moving the spectrum stepwise toward the slit opening until the peak has just passed the upper knife edge (Steps 172, 174, 176, 178 and 180, see col. 9, lines 16-29), and then moving the spectrum by an amount (slit width / 2 - 1eV) toward the slit opening (Step 182). Thus, the zero loss peak is moved from an off centered position to the knife edge and then further to the center position, but is not moved past the center position. The fine alignment step does

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not teach or suggest shifting the beam "from a first position where the selected electron beam is intercepted more by a first shield than by a second shield, via an intermediate position where the selected electron beam is intercepted equally by the first and the second shield, to a second position where the selected electron beam is intercepted more by the second shield than by the first shield" as required by claim 8.

The Krivanek and Tsuno references do not teach the "repeating shifting ..." step, as the Examiner acknowledged in the previous Office Action.

Accordingly, the applicant submits that the cited references, either taken alone or in combination, do not teach or suggest the "repeating shifting ..." element of claim 8. Claims 8-10 are therefore patentable over the cited references.

Claims 4-7 and 11 have been allowed.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6700 to discuss the steps necessary for placing the application in condition for allowance.

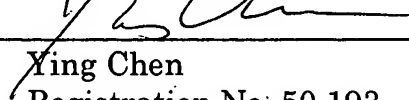
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Respectfully submitted,  
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Date: October 1, 2004

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